IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

MONDAY THE NINETEENTH DAY OF APRIL, TWO THOUSAND AND FOUR

: PRESENT :

THE HONOURABLE MR. JUSTICE : **N.V. RAMANA**

WRIT PETITION No. 7222 of 2004

Between:

Small Hydro Power Developers Association, 6-3-347/17/5, Dwarakapuri Colony, Punjagutta, Hyderabad 500 082, represented by Its Vice President, Sri Y.V. Subba Rao S/o. Y. Rama Chandra Rao, Aged about 43 years, resident of Plot No. 45, Sai Sarana, Sagar Society, Road No.2, Banjara Hlls,Hyderabad.

..Petitioner

AND

1. Union of India, represented by its Secretary, Ministry of Power, Government of India, New Delhi.
2. Andrha Pradesh Electricty Regulatory Commission, Singareni Bhavan, Red Hills, Hyderabad.
3. Transmission Corporation of Andhra Pradesh Ltd., Vidyut Soudha, Hyderabgad, represented by its Chairman & Managing Director.

..Respondent

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith the High Court will be pleased to issue an appropriate writ, Order or Direction, more particularly one in the nature of mandamus and and/or declaration :-

a) declaring the inaction of the Central Government in not establishing or constituting the Appellate terminal for Electricity as required by section 110 of the Electricity Act 2003 as contrary to law and consequently directing the Central government to forthwith establish and constitute the Appellate Tribunal for Electricity ; and

b) .declaring that the proceedings initiated and undertaken by the second respondent Commission in RP No. 84/2003 in O.P.No. 1075/2000 as without jurisdiction, contrary to law, arbitrary, irrational, unreasonable and violative of the principles of natural justice and Article 14 of the Constitution of India and consequently to set aside the order dated 20-3-004 ; and/or

c) declaring that the order dated 20-3-2004 passed by the second respondent Commission in RP.No. 84/2003 in OP.No. 1075/2000 as being irrational, unreasonable, contrary to the provisions of the Electricity Act 2003, ultra vires of the powers and functions vested in the Common by the Electricity Act 2003, and to set aside the same ; and

d) directing the third respondent to pay for the Electricity purchased by it from the small hydro power generating companies during the year 2004-2005 or any part thereof at the rate of Rs. 3.65 per unit in accordance with the existing MNES guidelines of Rs. 2.25 per unit with 1994-95 as the base year and with 5% cumulative increase for each subsequent year till determination of a proper tariff of the generating companies for sale to distribution licence in accordance with law.

e) And /or pass such further or other orders as this Honourable Court may deem fit and proper so that justice may be done.

The Petition coming on for orders as to admission upon perusing the petition and affidavit filed herein and the Order of the High Court dated 15.4.2004 and made herein and upon hearing the arguments of Mr. K. Gopal Choudary, Advocate for the Petitioner and of Mr. T. Surya Karan Reddy-SC for Central Government for Respondent No.1 and of Mr. P. Suri Raghu Ram,SC for Respondent No.2 and of Smt M. Vinobha Devi, SC for Respondent No.3

..2.

The Court made the following **ORDER:**

Learned Advocate General represented that a counter affidavit is being filed in the matter. Learned counsel for the petitioner sought time to file reply.

Post on 26.4.2004.

Meanwhile, the interim Order granted on 15.4.2004 stands extended.

ASSISTANT REGISTRAR

// TRUE COPY //

for ASSISTANT
REGISTRAR

To
1. The Secretary, Union of India, Ministry of Power,
   Government of India, New Delhi.
2. The Andrha Pradesh Electricty Regulatory Commission, Singareni
   Bhavan, Red Hills, Hyderabad.
3. The Chairman & Managing Director,
   Transmission Corporation of Andhra Pradesh Ltd., Vidyut Soudha, Hyderabgad.
4. One spare copy.

RV

HIGH COURT

NVR.J

DT.19-4-2004

Note: Post on 26.4.2004.

ORDER

W.P.No. 7222 of 2004

Interim Order stands extended

DRAFTED BY RV
DT.21-4-2004.

HIGH COURT

NVR.J

DT.19-4-2004.

Note :-
Post on 26.4.2004.

ORDER
W.P.No. 7222 of 2004

Interim Order stands extended .